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IN THE

Supreme Court of the United States

No. [redacted]

October Term, 1963

1176

MORTIMER W. H. COX, Administrator
of the Estate of LEONA A. JACKSON,
Deceased,

Petitioner

v.

ARTHUR O. HECKER,

Respondent

MORTIMER W. H. COX, Administrator
of the Estate of LEONA A. JACKSON,
Deceased,

Petitioner

v.

ELEANORE R. WRIGHT, also known as
ELEANORE R. HECKER,

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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§ 332 (b)

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

To the Honorable the Justices of the Supreme Court of the United States:

MORTIMER W. H. COX, petitions the COURT for a writ of certiorari to review the judgments of the United States Court of Appeals for the Third Circuit and says:

A. OPINIONS BELOW

The opinion of LUONGO, J., in the United States District Court for the Eastern District of Pennsylvania, is reported in 218 Fed. Supp. 749 (R* 67a). The opinion of McLAUGHLIN, GANEY and SMITH, JJ., in the United States Court of Appeals for the Third Circuit has not been reported (App.** A, p. 15).

B. JURISDICTION

The jurisdiction of this Court is invoked on the following grounds:

i. The date of the judgments of the United States Court of Appeals for the Third Circuit, sought to be reviewed, was April 10, 1964, and the time of the entry thereof was April 10, 1964. (App. B-16, 17.)

ii. The date of the order of the Court of Appeals denying a rehearing was May 5, 1964. (App. B-15.)

iii. The statutory provision believed to confer jurisdiction on this Court to review the judgment in question by writ of certiorari is the Act of June 25, 1948, Ch. 646 §1; 62 Stat. 928; 28 USC §1254: "Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; . . ."

C. STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

Whether petitioner was deprived of due process, equal protection of the law or right to trial by jury:

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* R herein refers to petitioner's Appendix in the Court of Appeals.

** App. here refers to the Appendix to this petition.

i. By the application of the decisional rule that expert testimony was necessary to show negligence of defendant doctors in their professional acts, including supervision of unlicensed subordinates who, in violation of the Pennsylvania Dangerous Drug Act of 1955 and of the Federal Drug, Device and Cosmetic Act, prescribed for Mrs. Jackson a drug which was, by operation of the statutes, classified as a dangerous drug and which was administered to her under such prescriptions.

ii. By the Trial Judge's exclusion of petitioner's counsel here (who, as surviving husband of Mrs. Jackson, was in a sense a real party in interest) from consulting with and guiding succeeding trial counsel in the trial of the cases (R 137-8a, l.26).

iii. By the District Court's refusal of sufficient time for succeeding counsel to prepare after an aborted first trial (R 59a, l. 26).

iv. By the Trial Judge's undue stress on the case for the defense (R 36a-47a) and errors in the charge.

v. By the Trial Judge's refusal of petitioner's requests for charge (R 23-35a).

vi. By defense counsel's reading, in summation, from a book not in evidence (R 166a, l. 11).

D. CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Constitution of the United States

Article III, Section 2 (App. C-18).

Fifth Amendment (App. C-18).

Seventh Amendment (App. C-18).

Fourteenth Amendment (App. C-18).